



Rule(s) Review Checklist Addendum
(This form must be filled out electronically.)

This form is to be used only if the rule(s) was/were previously reviewed, and has/have not been amended/repealed subsequent to that review.

All responses should be in **bold** format.

Document Reviewed (include title): **WAC 458-20-178 Use Tax**

Date last reviewed: **April 10, 1998**

Current Reviewer: **JoAnne Gordon**

Date current review completed: **January 8, 2002**

Is this document being reviewed at this time because of a taxpayer or association request? (If "YES", provide the name of the taxpayer/association and a brief explanation of the issues raised in the request). **YES** ☐ **NO** ☒

Type an "x" in the column that most correctly answers the question, and provide clear, concise, and complete explanations where needed.

1. Briefly describe the subject matter of the rule(s):

WAC 458-20-178 explains the general nature of the use tax. It explains when liability for the tax arises and who is liable for the tax. The rule also identifies statutory exemptions, credits, and how to pay the tax.

2. Related statutes, interpretive statements, court decisions, BTA decisions, and WTDs: (Excise Tax Advisories (ETAs), Property Tax Advisories (PTAs), Property Tax Bulletins (PTBs) and Audit Directives (ADs) are considered interpretive statements.)

YES	NO	
X		Are there any statutory changes subsequent to the previous review of this rule that should be incorporated?
	X	Are there any interpretive statements not identified in the previous review of this rule that should be incorporated? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
X		Are there any interpretive statements that should be repealed because the information is currently included in this or another rule, or the information is incorrect or not needed? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	X	Are there any Board of Tax Appeal (BTA) decisions, court decisions, or Attorney Generals Opinions (AGOs) subsequent to the previous review of this



		rule that provide information that should be incorporated into this rule?
X		Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) subsequent to the previous review of this rule that provide information that should be incorporated into the rule?
X		Are there any changes to the recommendations in the previous review of this rule with respect to any of the types of documents noted above? (An Ancillary Document Review Supplement should be completed if any changes are recommended with respect to an interpretive statement.)

If the answer is “yes” to any of the questions above, identify the pertinent document(s) and provide a brief summary of the information that should be incorporated into the document.

- **Several Washington Tax Decisions discuss how use tax applies when a Washington resident and a nonresident jointly own property that is registered and titled outside this state. The information contained in these published determinations should be incorporated when WAC 458-20-178 is amended. These decisions include:**
 - Det. No. 99-354, 19 WTD 904 (2000);
 - Det. No. 99-250, 19 WTD 370 (2000); and
 - Det. No. 99-009, 18 WTD 246 (1999).
- **The following use tax exemptions became law or were revised after the previous review of WAC 458-20-178 and should be incorporated when the rule is revised:**
 - RCW 82.12.832 exempts the use of gun safes. (Substitute Senate Bill (SSB) 5355 (Chapter 182, Laws of 1998))
 - RCW 82.12.02595 initially exempted the use of donated tangible personal property by nonprofit organizations or the state or local governments (as donee). This exemption was expanded to exempt the donor of the property, provided no intervening use occurred. (Substitute Senate Bill (SSB) 5355 (Chapter 182, Laws of 1998))
 - RCW 82.12.845 exempts the use of motorcycles loaned to the Department of Licensing or one of its contractors for motorcycle training. (House Bill (HB) 1582 Chapter 121, Laws of 2001))
- **ETA 319.12.178, Use tax modification to aircraft dealers, explains the Department’s position regarding the tax consequences when aircraft held for resale are used for charter flights and training programs. The previous review recommended leaving the ETA “as is.” However, the Department needs to reexamine the statutory basis for the tax-reporting instructions provided in this ETA. Any applicable and unique provisions regarding the application of use tax to aircraft used in this manner should be incorporated into the next revision of this rule or in some other document.**
- **The following Excise Tax Advisories should be cancelled:**
 - **ETA 54.12.211, Flying instructions, airplane rentals, and use tax liability. This ETA discusses the use of aircraft held for lease and to provide flying lessons. Although it discusses a different fact pattern, ETA 54 addresses the same issue**



- as ETAs 356 and 481. A previous review recommended that the ETA should be repealed after incorporating the information in WAC 458-20-178. Further review indicates that this ETA may be repealed as other documents (see discussion below for ETAs 356 and 481) contain sufficient information with respect to the use of property held for rental for other purposes. Concerning the specific use of aircraft held for lease and used for flight lessons, Det. No. 94-226, 15 WTD 65 (1995), provides a more comprehensive discussion of the issue by addressing the circumstances under which a different tax application results when student pilots rent or lease the aircraft for flight lessons.
- **ETA 112.12.178, Use tax in relation to use of private airplanes for business within and without the state.** This ETA explains that use of an airplane to commute between a company's main office and various construction sites outside the state constitutes taxable use notwithstanding the taxpayer's purchase and acceptance of the aircraft in another state. The previous review recommended incorporating the ETA in WAC 458-20-178 and then repealing it. Upon further review, this ETA may be repealed because Det. No. 98-029, 19 WTD 742, provides a more comprehensive discussion of the issue.
 - **ETA 320.12.178/179, Taxable transactions by aircraft dealers,** explains the tax consequences of sales and uses of aircraft held for sale by an aircraft dealer. The previous review recommended leaving the ETA "as is." Upon further consideration, the ETA may be repealed because numerous other documents sufficiently address these issues. These documents include WAC 458-20-211 (Leases or rentals of tangible personal property, bailment), WAC 458-20-193 (Inbound and outbound interstate sales of tangible personal property), ETA 319 (Use Tax Modification to Aircraft Dealers), ETA 447 (Rentals within and without Washington), Det. No. 94-226, 15 WTD 65 (1995), ETA 2006 (Taxability of air transportation and other activities performed with aircraft), and Det. No. 98-092, 17 WTD 388 (1998). In addition, the ETA discusses an incorrect application of the public utility tax.
 - **ETA 356.12.211, Use Tax: Rentals put to personal use,** explains that use tax applies to the use of a boat purchased for lease or rental but substantially used for personal purposes. A previous review recommended repealing this ETA after incorporating the information in WAC 458-20-178. Further review indicates that this ETA, ETA 481, and to a lesser extent, ETA 54, address the same subject matter. Both ETA 356 and 481 may be repealed because numerous other documents, such as WAC 458-20-211(6)(a) (Leases or rentals of tangible personal property, bailments), and Det. No. 87-99, 2 WTD 435 (1987), address the subject. In addition, several determinations specifically discuss the use of watercraft for purposes other than bare rentals. These determinations include Det. No. 88-12, 5 WTD 001 (1988), Det. No. 87-298, 4 WTD 087 (1987), and Det. No. 00-024, 19 WTD 710 (2000)
 - **ETA 415.12.178, Use tax on private automobiles acquired while a nonresident,** discusses what the term "private automobile" includes and excludes. The previous review recommended incorporating the information in WAC 458-20-178 and then repealing the ETA. Further review indicates that this ETA may be cancelled. As noted in the previous review, the statute was amended to use the



- term “private motor vehicle” instead of “private automobile” and to clarify that motor homes are not eligible for the exemption. As a result of the change, motorcycles are eligible for the exemption. This is inconsistent with the ETA’s guidance. In addition, the exemption applies to private motor vehicles, household goods, and personal effects acquired while a nonresident more than 90 days before becoming a resident of this state rather than 30 days as indicated by the ETA. Various other documents discuss certain types of property that are not eligible for the exemption. Det. No. 99-348, 19 WTD 916 (2000), discusses motor homes, Det. No. 91-106, 11 WTD 149 (1991), discusses boats, and Det. No. 90-284, 10 WTD 85 (1990) discusses fifth wheel trailers.
- **ETA 481.12.178, Sales or use tax applicable to items both leased and used for personal purposes**, explains that sales or use tax applies to property that is both acquired for lease and put to other use. The ETA also explains that there is no apportioning of the tax for leasing vs. other use. Although ETA 481 does not provide a specific fact pattern, it provides the same information as ETA 356, and ETA 54, to a lesser extent. As with ETA 356 and 54, this ETA may be repealed as other documents sufficiently address the issue.
 - **ETA 482.12.178, Meaning of resale . . . in the regular course of business**, explains that to be considered a purchase for resale the purchaser must actually and regularly be engaged in selling the type of property purchased. The previous review recommended retaining this ETA and incorporating the information when WAC 458-20-102 (Resale certificates) is revised. Upon further review, the ETA should be repealed. The ETA provides a strict definition of the term “normal course of business.” Practically speaking, this strict interpretation is not consistent with current application of the statute as it does not contemplate sale/leaseback transactions and purchases for dual purposes. More comprehensive discussions about what constitutes the “normal course of business” are provided in published determinations, such as Det. No. 88-32, 5 WTD 77 (1988), Det. No. 87-67, 2 WTD 331 (1987), Det. No. 00-045, 19 WTD 965 (2000), Det. No. 87-36, 2 WTD 183 (1986), Det. No. 92-251R 13 WTD 147 (1993), and Det. No. 91-044, 10 WTD 395 (1990).

3. Additional information: Identify any additional issues (other than that noted above or in the previous review) that should be addressed or incorporated into the rule. Note here if you believe the rule can be rewritten and reorganized in a more clear and concise manner.

WAC 458-20-178 (5) explains that use tax does not apply to persons distributing or causing the distribution of printed materials when the person has taken no direct control and dominion. In 1986, this statement about printed materials was incorporated in the rule to reflect *Sears v. Dept. of Revenue*, 97 Wn.2d 260, 643 P.2d 884 (1982). At such time as WAC 458-20-178 is revised, this statement should be reexamined in light of *D. H. Holmes Co. v. McNamara*, 108 S.Ct. 1619, 100 L.Ed.2d 21, (1988).

With respect to when payment of the use tax is due, WAC 458-20-178 provides information that is not consistent with RCW 82.32.045 (Taxes-When due and payable-



Reporting periods-Verified annual returns-Relief from filing requirements). This information should be corrected when the rule is revised.

At such time as WAC 458-20-178 is amended, a discussion about arms length transactions should be incorporated. The statute provides that when tangible personal property is acquired for use in this state under conditions which the purchase price does not represent true value, the value shall be determined as nearly as possible according to the retail selling price at the place of use of similar products of like quality and character. The statute presumes that such a selling price is determined by an arms length transaction. Several determinations discuss arm's length transactions, including Det. No. 99-132, 19 WTD 255 (2000), Det. No. 99-102, 19 WTD 236 (2000), and Det. No. 92-156, 12 WTD 195 (1993).

When WAC 458-20-178 is revised, an explanation should be incorporated indicating that the credit for sales or use tax paid in another jurisdiction does not include a value-added tax (VAT). Det. No. 87-105, 3 WTD 1 (1987), Det. No. 99-132, 19 WTD 255 (2000), and Det. No. 92-156, 12 WTD 195 (1993).

4. LISTING OF DOCUMENTS REVIEWED: The reviewer need identify only those documents that were not listed in the previous review of the rule(s). (Use "bullets" with any lists, and include documents discussed above. Citations to statutes, interpretive statements, and similar documents should include titles. Citations to Attorneys General Opinions (AGOs) and court, Board of Tax Appeals (BTA), and Appeals Division (WTD) decisions should be followed by a brief description (i.e., a phrase or sentence) of the pertinent issue(s).)

Statute(s) Implemented: **Statutes that became effective or were revised since the last review of Rule 178:**

- **RCW 82.12.02567 Exemptions -- Use of machinery and equipment used in generating electricity.**
- **RCW 82.12.02595 Exemptions -- Use of donated tangible personal property by nonprofit organization or governmental entity or for purpose donated -- Use of related property.**
- **RCW 82.12.0277 Exemptions -- Use of certain medical items.**
- **RCW 82.12.832 Exemptions -- Use of gun safes.**
- **RCW 82.12.880 Exemptions -- Animal pharmaceuticals**
- **RCW 82.12.890 Exemptions -- Dairy nutrient management equipment and facilities**
- **RCW 82.12.900 Exemptions -- Anaerobic digesters.**
- **RCW 82.12.910 Exemptions -- Propane or natural gas to heat chicken structures.**
- **RCW 82.12.920 Exemptions -- Chicken bedding materials.**

Interpretive statements (e.g., ETAs and PTAs):

- **ETA 54.12.211, Flying instructions, airplane rentals, and use tax liability**
- **ETA 112.12.178, Use tax in relation to use of private airplanes for business within and without the state**



- **ETA 320.12.178/179, Taxable transactions by aircraft dealers**
- **ETA 356.12.211, Use Tax: Rentals put to personal use**
- **ETA 415.12.178, Use tax on private automobiles acquired while a nonresident**
- **ETA 481.12.178, Sales or use tax applicable to items both leased and used for personal purposes**
- **ETA 482.12.178, Meaning of resale . . . in the regular course of business**

Court Decisions:

Board of Tax Appeals Decisions (BTAs):

Administrative Decisions (e.g., WTDs):

- **Det. No. 99-101, 20 WTD 175 (2001), determined that the nonresident exemption for use of vehicles in this state is not available to an Idaho resident maintaining marital community in Washington.**
- **Det. No. 00-030, 20 WTD 154 (2001), determined that use tax applied to the use of a vehicle in this state by a person who did not meet the requirements for nonresident student exemption or the exemption for nonresidents who purchase and use the vehicle in another state more than 90 days before moving to Washington.**
- **Det. No. 99-049, 20 WTD 136 (2001), determined that use tax applied to a motor home purchased outside this state by Washington residents.**
- **Det. No. 01-061, 20 WTD 451 (2001), determined that a person was not a resident of this state and use of a fifth wheel and truck in this state qualified for exemption provided under RCW 82.12.0251.**
- **Det. No. 00-004, 20 WTD 348 (2001), upheld use tax on new replacement tires a tire dealer provided to customers returning defective tires pursuant to extended warranties the dealer sold to the customers.**
- **Det. No. 00-057, 19 WTD 986 (2000), upheld use tax assessment on barges and tugs used by a company bunkering fuel as vessels did not engage in interstate/foreign commerce activities and did not qualify for exemption under RCW 82.08.0262 and 82.12.0254. Also upholds assessment of use tax on fuel consumed in delivering fuel.**
- **Det. No. 00-045, 19 WTD 965 (2000), denied corporation's petition of refund for sales tax paid by corporate officers in purchasing a vessel where previous decisions denied refund on basis that vessel was not purchased for resale in the normal course of business.**
- **Det. No. 00-020, 19 WTD 932 (2000), determined that a taxpayer who pays its employees' personal credit card debts for purchases of items the employees purchase for their personal use is not liable for retail sales tax or use tax.**
- **Det. No. 99-348, 19 WTD 916 (2000), clarified that the term "private automobile" does not include motor homes.**
- **Det. No. 99-085, 19 WTD 909 (2000), determined that in the specific situation at issue, the person was not a resident of this state. Use of motor home within this state qualified for use tax exemption provided to nonresidents. A resident is one who manifests an intent to live or be located in Washington on more than a temporary or transient basis."**



- **Det. No. 99-354, 19 WTD 904 (2000), concluded that a Washington resident whose name appeared on title of parent's vehicle, titled and registered in another state, was not a co-owner of the vehicle. Child's name appeared on title only, insurance identified parent as the only driver. Determination concluded that child was identified on registration and title for estate planning purposes only. Use tax not due.**
- **Det. No. 98-029, 19 WTD 742 (2000), determined that the use within this state of a Lear jet, owned by a Washington corporation and used to transport corporate executives and clients to and from its Washington headquarters and interstate locations, is subject to use tax notwithstanding the fact that it was hangared outside the state.**
- **Det. No. 00-024, 19 WTD 710 (2000), found that intervening use occurred by taxpayer who purchased a boat for bare rental yet captained the boat during rental and used the boat for personal purposes.**
- **Det. No. 99-324, 19 WTD 666 (2000), determined that a former Washington resident, who purchased a motor vehicle in Washington after his move to Idaho, was not liable for use tax where evidence showed only limited use in Washington and residency in Idaho was confirmed.**
- **Det. No. 99-287, 19 WTD 660 (2000), upheld assessment of use tax on vessel that taxpayer used to cruise in Washington waters, offered for charter in Washington waters, and used as a home in Washington.**
- **Det. No. 99-347, 19 WTD 627 (2000), upheld assessment of use tax against a taxpayer who owns a home, operates a business, and has utility and telephone service in Washington. The taxpayer established substantial connections to Washington and the evidence established an intent to be located in Washington on more than a temporary or transitory basis. A taxpayer may be a resident of more than one state for use tax and motor vehicle excise tax (MVET) purposes.**
- **Det. No. 99-342, 19 WTD 608 (2000), explained that there is a rebuttable presumption that a Washington resident who purchases property in another state intends to use the property in Washington. The burden of rebutting such a presumption rests with the resident.**
- **Det. No. 99-105, 19 WTD 546 (2000), determined that a Washington resident who leaves the state continues to be a Washington resident until a permanent residence is established elsewhere and the resident manifests an intent to no longer live or be located in Washington on more than a temporary or transient basis.**
- **Det. No. 99-147, 19 WTD 447 (2000), found the use of tangible personal property by subleasee is not subject to use tax when the subleasee paid the lessee's obligation directly to the lessor and such payment included retail sales tax.**
- **Det. No. 99-250, 19 WTD 370 (2000), upheld assessment of use tax where a Washington resident and an Oregon resident jointly owned a motor home licensed in both owners' names in Oregon, and the Washington resident used the motor home in Washington. The Washington resident's claim that his name was listed as joint owner simply for financing purposes contradicted other evidence of ownership.**
- **Det. No. 99-239R, 19 WTD 367 (2000), reversed use tax assessment on charter boat put to personal or intervening use because the statute of limitations had run before the assessment of use tax.**



- **Det. No. 99-132, 19 WTD 255 (2000), determined that the Department is not required to accept a buyer and seller's written allocation of value between personal and real property as the market value of the personal property where the transaction was not at arms length. Personal property tax rolls may not be appropriate evidence of fair market value for use tax purposes as such rolls are based on estimated statewide values that are annualized and include depreciation.**
- **Det. No. 99-102, 19 WTD 236 (2000), determined that with respect to the purchase of commercial real and personal property, a depreciation method of valuation may be an aid in arriving at an opinion of market value, but this evidence must be supplemented by evidence of such comparable sales. Where results of auction sales are used to determine value, the evidence must show comparable sales at the place of use, of similar products of like quality, quantity, and character.**
- **Det. No. 99-084, 19 WTD 229 (2000), determined that where a foreign corporation with offices in Washington purchases a vehicle and provides it to a corporate officer, who uses the vehicle in Washington for the business' purposes, the corporation incurs a use tax liability.**
- **Det. No. 99-104, 19 WTD 76 (2000), concluded that use tax credit available when the purchase occurs in a state that imposes a use tax does not apply when the use tax in that state has not been paid and the taxpayer subsequently used the item in Washington.**
- **Det. No. 99-044, 18 WTD 461 (1999), concluded refund of use tax appropriate where a son acquired the automobile by gift or bailment from parents and used it while a bona fide resident of Montana, and such acquisition and use occurred more than ninety days prior to the time he moved to Washington.**
- **Det. No. 99-043, 18 WTD 452 (1999), upheld use tax assessment on use of vehicles in this state by couple claiming to be Arizona residents, even though the vehicles registered in a third state. The couple had not established substantive ties to the third state. Nor had the couple relinquished ties to Washington, such as voting in this state, filing income tax returns using a Washington address, maintaining a Washington mailing address, and receiving medical care in this state.**
- **Det. No. 99-009, 18 WTD 246 (1999), upheld use tax assessment on motor home jointly owned by a husband and wife who have separated and reside in different states (Washington and Oregon). Both the husband and wife used the vehicle in Washington.**
- **Det. No. 98-120, 18 WTD 132 (1999), determined that use of motor home in this state subject to use tax because the taxpayers had not become nonresidents of Washington and residents of Oregon when they registered the motor home there and first used it in Washington. The taxpayers neither established a residence in Oregon nor demonstrated and intent to remain in or return to Oregon. An intent to become a nonresident a some future date is not sufficient to qualify for the use tax exemption for nonresidents provided by RCW 82.12.0251.**
- **Det. No. 98-061, 18 WTD 120 (1999), upheld denial of refund for use tax paid when a taxpayer purchased a tanker truck and used it in business before leasing the vehicle to a lessee. Taxpayer's use of the tanker before leasing it is intervening use.**



- Det. No. 98-144, 18 WTD 93 (1999), determined that a corporate officer's daily use of a vehicle owned by a Washington taxpayer in conducting the taxpayer's business affairs in Washington constitutes use of the vehicle by the taxpayer in Washington.
- Det. No. 98-054, 17 WTD 354 (1998), determined use tax did not apply in situation where a taxpayer continued to pay for product after notifying the seller it no longer required the product rather than making lump sum termination payment. No use occurred because there was no transfer of ownership, title, or possession of the product, there was no "constructive delivery."
- Det. No. 98-042, 17 WTD 346 (1998), determined that a person who leased a private motor vehicle for more than two years in another state where he was a bona fide resident and then, while still a resident of the other state, exercised his right under the lease agreement to purchase that vehicle qualifies for the use tax exemption even if the actual purchase of the vehicle occurred less than 90 days prior to person becoming a Washington resident.
- Det. No. 95-244, 17 WTD 299 (1998), determined that when the rental price of a product is below the true value, the Department adjusts the rental price to the true value based on the reasonable rental price of similar products of like quality, quantity, and character.
- Det. No. 97-165, 17 WTD 15 (1998), determined that use tax applies to personalized calendars given to purchasers of new automobiles
- Det. No. 96-049, 16 WTD 177 (1996), concluded that for purposes of the use tax, taxpayers were residents when they maintained a second home in Washington.
- Det. No. 94-226, 15 WTD 65 (1995), concluded that use tax did not apply to use of aircraft for flight lessons when student pilots lease the aircraft and pay sales tax on the lease payments, which includes fuel costs.
- Det. No. 92-251R 13 WTD 147 (1993), determined that a taxpayer need not be licensed as a motor home dealer to claim purchase for resale in the normal course of business. Use tax assessment upheld on grounds that intervening use of motor home occurred.
- Det. No. 92-156, 12 WTD 195 (1993), determined that where the taxpayer purchases real and personal property in a single transaction, allocates the purchase price in an "arms length transaction," the use tax will be imposed on the agreed purchase price.
- Det. No. 91-106, 11 WTD 149 (1991), explains that a boat is not a personal effect or household item for purposes of RCW 82.12.0251.
- Det. No. 91-044, 10 WTD 395 (1990), determined that removal of software from inventory to trade for software from another company is not for resale in the normal course of business where taxpayer used the software acquired in the trade.
- Det. No. 90-284, 10 WTD 85 (1990), denied relief from use tax on basis that a fifth wheel is not a private automobile, personal effect, or household good.
- Det. No. 88-32, 5 WTD 77 (1988), upheld assessment of use tax upon determining that boat was not purchased for resale in normal course of business.
- Det. No. 88-12, 5 WTD 1 (1988), determined that use tax was due on the use of a boat by a limited partnership and the limited partners, even though the boat was held out to the public for bare-boat charter leasing by partnership as such use constituted intervening use.



- **Det. No 87-298, 4 WTD 087 (1987), determined that use tax applied to a vessel acquired outside this state for lease and for personal use.**
- **Det. No. 87-105, 3 WTD 1 (1987), determined that a value added tax (VAT) does not qualify for the use tax credit for retail sales or use tax paid in another state as provided by RCW 82.12.035. Under the VAT system of taxation the seller is not required by law to separately state the tax nor is the tax customarily separately stated from the sales price where the buyer is the ultimate consumer.**
- **Det. No. 87-99, 2 WTD 435 (1987), determined that taxpayer is not liable for sales tax on its purchase of a helicopter because the helicopter was acquired solely for rental purposes.**
- **Det. No. 87-67 2 WTD 331 (1987), upheld assessment of use tax on hydroplane and purchase of hydroplane parts as not purchased for resale in the normal course of business.**
- **Det. No. 87-36, 2 WTD 183 (1986), determined that the purchase of aircraft by an airline for sale to another company constitutes a purchase for resale in the normal course of business. Purchase of property for resale as part of a planned business transaction qualifies as a purchase for resale "in the regular course of business" even though the buyer/seller is not regularly engaged in the business of dealing in such property.**

Attorney General's Opinions (AGOs):

- **AGO 61-62 No. 153 concludes that charter fishing operations constitute a commercial enterprise, sales of charter fishing boats are subject to sales tax unless purchased for charter without an operator. The AGO also concludes that use tax may be assessed at when a boat is put to a nonexempt use regardless of the length of time elapsing after the purchase but may not be assessed more than four years after the close of the year in which the nonexempt use occurred.**

Other Documents (e.g., special notices or Tax Topic articles, statutes or regulations administered by other agencies or government entities, statutes, rules, or other documents that were reviewed but were not specifically relevant to the subject matter of the document being reviewed):

- **Interim Audit Guideline (IAG) 01-01, Deferred Sales Tax, instructs Department personnel on the proper use of the term "deferred sales tax," explains the difference between deferred sales tax and use tax, and provides instructions on proper reporting and auditing procedures. While IAG 01-01 provides clarity on a confusing subject, the information is not suitable for incorporation in WAC 458-20-178. The information is lengthy and is outside the rule's scope. Consideration should be given to converting the IAG to an Excise Tax Advisory.**
- **The following Tax Topics articles were reviewed:**
 - **April-June 1995, Retail sales tax, use tax, deferred sales tax: are they one and the same? Persons seeking information about deferred sales tax should refer to**



- Interim Audit Guideline (IAG) 01-01 as it provides a thorough explanation and comprehensive reporting instructions.**
- **July-September 1994, Purchases and rentals of tangible personal property by caterers subject to retail sales tax.**
 - **October –December 1993, Doing business with the federal government and bailment.**
 - **October –December 1993, Car was businesses owe sales tax on soap**
 - **April-June 1993, magazine subscriptions (Q&A).**
 - **October-December 1992, Don't forget about use tax.**
 - **July-September 1991, Intervening use.**
 - **July-September 1991, Tangible personal property included in real property sales subject to sales/use tax.**
 - **April-June 1986, How to determine use tax values.**



4. Review Recommendation:

<u> X </u>	Amend
<u> </u>	Repeal (Appropriate when repeal is not conditioned upon another rule-making action.)
<u> </u>	Leave as is (Appropriate even if the recommendation is to incorporate the current information into another rule.)
<u> </u>	Begin the rule-making process for possible revision. (Applies only when the Department has received a petition to revise a rule.)

Explanation of recommendation: Provide a brief summary of your recommendation, whether the same as or different from the original review of the document(s). If this recommendation differs from that of the previous review, explain the basis for this difference.

If recommending that the rule be amended, be sure to note whether the basis for the recommendation is to:

- Correct inaccurate tax-reporting information now found in the current rule;
- Incorporate legislation;
- Consolidate information now available in other documents (e.g., ETAs, WTDs, court decisions); or
- Address issues not otherwise addressed in other documents (e.g., ETAs, WTDs, court decisions).

For the reasons identified above and in the previous review of this rule, WAC 458-20-178 should be revised. There is the possibility that legislation affecting use tax issues addressed in Rule 178 may be passed during the 2002 session. Any such changes should be incorporated into this rule.

5. Manager action: Date: _____

 Reviewed and accepted recommendation

Amendment priority:

- 1
- 2
- 3
- 4